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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
015,752	02/27/79	Norbert Busch, et al.,	JRBFLMUS

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MAILED

NOV 6 1979

EXAMINER	
JTovar	
ART UNIT	PAPER NUMBER
122	5

DATE MAILED:

GROUP 120

This is a communication from the examiner in charge of your application.

COMMISSIONER OF PATENTS AND TRADEMARKS

☐ This application has been examined. ☒ Responsive to communication filed on 10-12-79 ☒ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited, Form PTO-892. | 2. <input type="checkbox"/> Notice of Informal Patent Drawing, PTO-948. |
| 3. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152. | 4. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 7-8 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☒ Claims 7-8 are rejected.
5. ☐ Claims _____ are objected to.
6. ☐ Claims _____ are subject to restriction or election requirement.
7. ☐ The formal drawings filed on _____ are acceptable.
8. ☐ The drawing correction request filed on _____ has been ☐ approved. ☐ disapproved.
9. ☒ Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has
☒ been received. ☐ not been received. ☐ been filed in parent application, serial no. _____,
filed on _____.
10. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
11. ☐ Other

The claims in the case are 7 to 8.

Claims 7 to 8 are rejected as being unpatentable under 35 USC 251 for the following reasons:

(1) The claims define a compound having a structural formula not described in original application. New matter has been introduced into the application, in specification and claims.

(2) The declaration does not comply with 37 CFR 1.175 items (1), (2), (3) and (5), cited in MPEP 1401.08.


(3) The claims enlarge the scope of the claims prohibited by 35 USC 251, last paragraph.

The traverse of the above rejections has been very carefully considered but is not persuasive of error in the rejections. (See MPEP 1408.01, page 232, col. one, 4th full paragraph, 1st sentence as to what is meant by enlarging the scope of the claims.

The patent statutes afford no authority for the reissue of a patent merely to add other claims of the same scope as those already granted. Also, 35 USC 251 does not authorize reissue of a patent unless it is deemed wholly or partly inoperative or invalid. (MPEP 1401.09).

The rejection is FINAL.

JTovar/jlb
A/C 703
557-3032
10/31/79


JOSE TOVAR
EXAMINER
P ART UNIT